



General Assembly

Amendment

January Session, 2007

LCO No. 9327

SB0023409327SD0

Offered by:

SEN. DUFF, 25th Dist.

REP. BARRY, 12th Dist.

SEN. DELUCA, 32nd Dist.

To: Senate Bill No. 234

File No. 67

Cal. No. 126

"AN ACT CONCERNING THE DEPARTMENT OF BANKING."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 36a-664 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective from passage*):

5 (a) (1) Except as provided in subdivision (2) of this subsection, no
6 such license, and no renewal thereof, shall be granted unless the
7 applicant has filed a surety bond with the commissioner written by a
8 surety authorized to write such bonds in this state, provided any
9 applicant that files applications for licenses for more than one location
10 shall file a single bond. [For] Except as provided in this subdivision,
11 for every applicant, the principal amount of the bond shall be the
12 greater of (A) forty thousand dollars, or (B) twice the amount of the
13 [highest total] average daily balance of the payments received by the
14 applicant from Connecticut debtors in connection with the applicant's

15 debt adjustment activity [in any month] during the preceding twelve
16 months ending July thirty-first of each year and, in the case of an
17 applicant that has acquired the business of another debt adjuster by
18 the applicant's predecessor, its predecessor's debt adjustment activity
19 during such preceding period, not to exceed one million dollars.
20 However, the commissioner may require a larger bond if the
21 commissioner determines that a licensee has engaged in a pattern of
22 conduct resulting in bona fide consumer complaints of misconduct and
23 that such increased bond is necessary for the protection of consumers,
24 or may increase or decrease the amount of the bond based upon the
25 applicant's or licensee's financial condition, business plan and the
26 actual or estimated aggregate amount of payments and fees paid by
27 Connecticut debtors to such applicant or licensee. Each licensee shall
28 submit to the commissioner, [evidence that the bond complies with the
29 provisions of this subdivision] by September first of each year, a report
30 containing information on the average daily balance of the payments
31 received by the licensee from Connecticut debtors during the
32 preceding twelve months ending July thirty-first of each such year.
33 The report shall be subscribed and affirmed as true by the licensee and
34 shall be in a form prescribed by the commissioner.

35 (2) If a licensee or applicant for renewal of a license establishes that
36 such licensee or applicant is unable to comply with the bond required
37 by subdivision (1) of this subsection, it [may submit to the
38 commissioner, by July first, a request for an alternative to such
39 requirement. If the commissioner finds that the financial responsibility,
40 character, reputation, integrity and general fitness of the applicant so
41 warrant, the commissioner may permit the applicant or licensee to
42 supplement the maximum surety bond that] shall file a bond for the
43 highest principal amount it can obtain, provided [the principal amount
44 of the surety bond] such amount shall be a minimum of forty thousand
45 dollars, [with such other bonds or insurance policies, in such amounts,
46 for such period and subject to such conditions as the commissioner
47 may approve. Any such bond or insurance policy shall be written or
48 issued by a surety or insurance company authorized to write such

49 bonds or sell such insurance in this state.] and the licensee or applicant
50 shall, in lieu of the balance of the required amount of the bond, deposit
51 such sum as provided in this subdivision. The amount of such deposit
52 shall be equal to the amount of the bond required by subdivision (1) of
53 this subsection less the amount of the bond filed with the
54 commissioner. Such applicant or licensee shall deposit such amount, in
55 cash or cash equivalents, with such bank, out-of-state bank that has a
56 branch in this state, Connecticut credit union or federal credit union as
57 such applicant or licensee may designate and the commissioner may
58 approve, and subject to such conditions as the commissioner deems
59 necessary for the protection of consumers and in the public interest.
60 No applicant or licensee shall make such deposit until the depository
61 institution at which the deposit is to be made and the applicant or
62 licensee executes a deposit agreement satisfactory to the commissioner.
63 The deposit agreement shall pledge the amount deposited to the
64 commissioner and provide that the depository institution shall not
65 release any of the moneys pledged without the authorization of the
66 commissioner. The amount deposited shall secure the same obligation
67 as would a surety bond filed under this section and shall be held at
68 such banks or credit unions to cover claims during the period the
69 license remains in full force and effect and the succeeding two years
70 after such license has been surrendered, revoked or suspended or has
71 expired in accordance with the provisions of section 36a-657. The
72 applicant or licensee may collect interest on such deposit in accordance
73 with its deposit agreement. The deposits made pursuant to this section
74 shall be deemed by operation of law to be held in trust for the benefit
75 of any debtor who may be damaged by failure of an applicant or
76 licensee to perform any written agreements, or by the wrongful
77 conversion of funds paid to a licensee in the event of the bankruptcy of
78 the licensee, and shall be immune from attachment by creditors or
79 judgment creditors.

80 (3) The form of any surety bond submitted pursuant to this section
81 shall be approved by the Attorney General. Any surety bond filed
82 under this section shall be conditioned upon the licensee faithfully

83 performing any and all written agreements with debtors, truly and
84 faithfully accounting for all funds received by the licensee in the
85 licensee's capacity as a debt adjuster, and conducting such business
86 consistent with the provisions of sections 36a-655 to 36a-665, inclusive.
87 Any debtor who may be damaged by failure to perform any written
88 agreements, or by the wrongful conversion of funds paid to a licensee,
89 may proceed on any such surety bond against the principal or surety
90 thereon, or both, to recover damages. The commissioner may proceed
91 on any such surety bond against the principal or surety thereon, or
92 both, to collect any civil penalty imposed upon the licensee pursuant to
93 subsection (a) of section 36a-50. The proceeds of any bond, [or
94 insurance policy,] even if commingled with other assets of the licensee,
95 shall be deemed by operation of law to be held in trust for the benefit
96 of such claimants against the licensee in the event of bankruptcy of the
97 licensee and shall be immune from attachment by creditors and
98 judgment creditors. Any bond [or insurance policy] required by this
99 section shall be maintained during the entire period of the license
100 granted to the applicant, and the aggregate liability under any such
101 bond [or insurance policy] shall not exceed the principal amount of the
102 bond, [or the limit of liability of the insurance policy.]

103 (b) The surety [or insurance] company shall have the right to cancel
104 any bond [or insurance policy written or issued] filed under subsection
105 (a) of this section at any time by a written notice to the licensee, stating
106 the date cancellation shall take effect. Such notice shall be sent by
107 certified mail to the licensee at least thirty days prior to the date of
108 cancellation. No such bond shall be cancelled unless the surety [or
109 insurance] company notifies the commissioner in writing not less than
110 thirty days prior to the effective date of cancellation. The commissioner
111 shall automatically suspend the license on the date the cancellation
112 takes effect, unless the bond [or insurance policy] has been replaced or
113 renewed. The commissioner shall give the licensee notice of the
114 automatic suspension pending proceedings for revocation or refusal to
115 renew and an opportunity for a hearing on such actions in accordance
116 with section 36a-51.

117 (c) No licensee shall use, attempt to use or make reference to, either
118 directly or indirectly, any word or phrase which states or implies that
119 the licensee is endorsed, sponsored, recommended [,] or bonded [or
120 insured] by the state."

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	36a-664
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